



# US Army Corps of Engineers

Omaha District

## PUBLIC NOTICE

Application No:	200290647
Project Name:	Melstone – East & West
Applicant:	Montana Dept. of Transportation
Waterway:	McLean Coulee and numerous unnamed drainages
Issue Date:	January 15, 2003
Expiration Date:	January 30, 2003

**15 DAY NOTICE**

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Regulatory Branch	106 South 15 <sup>th</sup> Street	Omaha, Nebraska	68102-1618
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**JOINT PUBLIC NOTICE  
FOR PERMIT APPLICATION SUBMITTED TO  
U.S. ARMY CORPS OF ENGINEERS  
AND  
MONTANA DEPARTMENT OF ENVIRONMENTAL QUALITY**

The application of the Montana Department of Transportation (MDT) for approval of plans and issuance of a permit under authority of the Secretary of the Army is being considered by the District Engineer, U.S. Army Corps of Engineers, Omaha, Nebraska. **The project described herein is not being proposed by the Corps, but by the applicant; the Corps will evaluate the proposed work to determine if it is permissible under current laws and regulations.**

**Description of Proposed Project:** The applicant requests permission to place fill in various Waters of the U.S. in conjunction with the planned reconstruction of 10.74 miles of U.S. Highway 12 between approximate mileposts 196.1 and 206.7. The project includes improving the horizontal and vertical roadway alignment, lengthening curves, minor widening of the driving surface and side slopes, and improving grades. The final roadway configuration will remain as two 12-foot wide driving lanes with new 2-foot wide shoulders, for a final paved roadway width of 28 feet. The project is located near the town of Melstone in eastern Musselshell County, Montana.

The proposed work includes: removal of eight bridges and installation of appropriately sized reinforced concrete boxes or pipe arches; replacement of existing culverts with new culverts; installation of new culverts at two locations; and up to 2.427 acres of wetlands impacts. The total 2.427 acres of wetland fill will be spread over 10 locations, with individual wetland files varying in size from approximately 0.027 to 1.73 acres. Compensatory mitigation for the 2.427 acres of wetland impacts was conducted at an abandoned wastewater treatment pond near Roundup, Montana.

**Location:** The project is located in Section 12, Township 9 North, Range 29 East; Sections 2, 3, 4, and 5, Township 9 North, Range 30 East; Sections 35 and 36, Township 10 North, Range 30 East; and Sections 29 and 31, Township 10 North, Range 31 East, Musselshell County, Montana. The project is located immediately east and west of the town of Melstone on U.S. Highway 12 between approximate mileposts 196.1 and 206.7. A map showing the location and extent of the project is attached to this notice.

**Purpose:** The applicant's stated project purpose is to reconstruct a portion of U.S. Highway 12 to current standards.

**Background:** Compensatory mitigation for the 2.427 acres of unavoidable wetland impacts was conducted at an abandoned wastewater treatment pond near Roundup, Montana. At the site, two ponds were covered by topsoil, and the compensatory mitigation involved grading, earthwork, and seeding to restore the wetland areas.

**401 Water Quality Certification:** The Montana Department of Environmental Quality, P.O. Box 200901, 1520 East Sixth Avenue, Helena, Montana 59626-0901, will review the proposed project with the intent to certify in accordance with the provisions of Section 401 of the Clean Water Act. The certification, if issued, will express the State's opinion that the operations undertaken by the applicant will not result in a violation of applicable water quality standards. The Montana Department of Environmental Quality hereby incorporates this public notice as its own public notice and procedures by reference thereto.

**Cultural Resources:** The Corps of Engineers, Omaha District will comply with the National Historic Preservation Act of 1966, as amended. We have checked the National Register of Historic Places (NRHP) and its current supplements, and there are no known National Register sites in the vicinity. However, the application has conducted a cultural resources inventory for the area, and has determined that there are two sites in the vicinity of the project that are NRHP-eligible. No adverse effects to the two eligible sites were predicted. This office will evaluate input by the State Historic Preservation Office and the public in response to this public notice, and we may conduct or require an additional reconnaissance survey of the permit area to check for unknown historic or prehistoric properties, if warranted.

**Threatened / Endangered Species:** This project is in the known range of the Federally-listed threatened bald eagle, the endangered black-footed ferret, and the proposed-for-listing mountain plover. In order to complete our evaluation of this activity, comments are solicited from the U.S. Fish and Wildlife Service (USFWS) and other interested agencies and individuals. Coordination with the USFWS was completed, and the USFWS concurred with the finding that the project would not likely adversely affect the bald eagle, and would have no effect on the black-footed ferret or on the mountain plover.

**Evaluation Factors:** The decision whether to issue a permit will be based on an evaluation of the probable impacts, including cumulative impacts of the proposed activity on the public interest. That decision will reflect the national concern for both the protection and the utilization of important resources. The benefits that reasonably may be expected to accrue from the proposed activity must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered, including the cumulative effects thereof; among those are conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership and, in general, the needs and welfare of the people. In addition, the evaluation of the impact of work on the public interest will include application of the guidelines promulgated by the Administrator, Environmental Protection Agency, under authority of Section 404(b) of the Federal Clean Water Act (40 C.F.R.; Part 230).

**Comments:** The Corps of Engineers is soliciting comments from the public; Federal, state, and local agencies and officials; Indian Tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity. All public notice comments will be considered public information and will be subject to review by the applicant.

Any person may request, in writing and within the comment period specified in this notice, that a public hearing be held for the purpose of gathering additional information. Requests for public hearings shall be identified as such and

shall state specifically the reasons for holding a public hearing and what additional information would be obtained.

Requests should be submitted to the U.S. Army Corps of Engineers, Omaha District, Regulatory Branch, 106 South 15<sup>th</sup> Street, Omaha, Nebraska 68102-1618. If it is decided that additional information is required and a public hearing should be held, interested parties will be notified of the date, time and location.

Any interested party (particularly officials of any town, county, state or federal agency; Indian Tribe; or local association whose interests may be affected by the work) is invited to submit to this office written facts, arguments, or objections on or before the expiration date listed on the front of this notice. Any agency or individual having an objection to the work should identify their concern or interest with clear and specific reasons. Comments, both favorable and unfavorable, will be accepted, made a part of the record and will receive full consideration in subsequent actions on this application. All replies to the public notice should be addressed to the **U.S. Army Corps of Engineers, Omaha District, Regulatory Branch, 106 South 15<sup>th</sup> Street, Omaha, Nebraska 68102-1618. Please reference the Application Number found on the first page of this notice in any correspondence.** Ms. Kathy Iske, telephone number (402) 221-3055, may be contacted for additional information. You may also fax your comments to (402) 221-4939 or e-mail them to: Kathy.L.Iske@usace.army.mil.

Comments postmarked after the expiration date of this notice or received by Fax after the expiration date of this Public Notice will not be considered.

**Statutory Authorities:** A permit, if issued, will be under the provisions of Section 404 of the Federal Clean Water Act.